

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Masanori SAKAI et al.

Application No.: 10/549,698

Confirmation No.: 9561

Filed: July 14, 2006

Art Unit: 1792

For: SUBSTRATE PROCESSING APPARATUS
AND PRODUCING METHOD OF
SEMICONDUCTOR DEVICE

Examiner: K. T. Chen

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

In response to the Interview Summary Form PTOL-413 dated August 13, 2008,
Applicants file the attached Statement of the Substance of the Interview.

The Statement of the Substance of the Interview begins on page 2 of this paper.

Statement of the Substance of the Interview

On August 6, 2008, Applicants' representative Mr. Paul T. Sewell and Examiner Michael Cleveland and Supervisory Patent Examiner Keath Chen conducted a telephonic interview concerning the issues in this application. Applicants and Applicants' representative appreciate the courtesies extended during the interview, and the willingness of the Examiner and Supervisor to discuss claim amendments that would bring prosecution to a prompt and timely conclusion. The Examiner subsequently prepared an Interview Summary Form PTOL-413, dated August 13, 2008, which required Applicants to file a statement of the substance of the interview. The following is that statement.

In the Interview, Applicants' representative argued against the "intended use" reasoning employed in the last Office Action in light of the instant amendments. More particularly, we argued that as now claimed, the positive recitation of controlling means that controls the gas supply to supply a first gas through a first supply tube and alternately controls the gas supply to supply a second gas through a second supply tube cannot be met by the combination of Hatano and Miyazaki, because they fail to show or suggest all of the positively claimed features. Supervisor Cleveland indicated that the controller could be read on any operator that chose to operate the valves in any manner possible, and that Hatano is inherently usable in this particular fashion. We argued that such an interpretation was impermissible under any case law and that a controller performing specifically recited functions is a positively recited structural feature that has to be shown or suggested by prior art. The Supervisor indicated that he was unsure as to what language was necessary for a controller to be a positive recitation of structure and function, and that he may want to take the application to Appeal so that he could get guidance. The Supervisor also argued, despite our arguments to the contrary, that there was no structural difference between Atomic Layer Deposition and Chemical Vapor Deposition. There was a discussion of the case law regarding intended use, which primarily focuses on preamble language rather than claims like these, and there was also a discussion of the case law relating to rendering the prior art unsatisfactory for its

intended purpose and changing the principle of operation of a reference, which the Supervisor alleged did not apply to this situation. Supervisor Cleveland did agree to call us, during their consideration of the amended claims, if they were able to suggest changes to the claims that would make the claims allowable.”

Conclusion

All objections and rejections raised in the prior Office Action having been properly traversed and addressed in the Amendment filed July 16, 2008, it is respectfully submitted that the present application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: September 3, 2008

Respectfully submitted,

By

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